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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

CHASE BANK USA, N.A.,

Plaintiff and Respondent,

v.

ALYSON HIDALGO,

Defendant and Appellant.

G045297

(Super. Ct. No. 30-2010-00416457)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, David R. Chaffee, Judge. Affirmed.

Alyson Hidalgo, in pro. per., for Defendant and Appellant.

No appearance for Respondent.

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After plaintiff Chase Bank USA, N.A. obtained a default judgment against defendant Alyson Hidalgo she moved to set aside both the judgment and the notice of entry of judgment. The record reflects that plaintiff personally served defendant with the complaint to collect on a credit card debt on August 23, 2010. When no answer or other responsive pleading was filed, on January 19, 2011 defendant filed a request to enter default, which was entered that same day. Judgment in the sum of close to \$32,000 was entered on February 7, 2011.

On March 22, 2011, defendant filed her motion to vacate pursuant to Code of Civil Procedure section 473, subdivision (b) (all further statutory references are to this code). (She also cited section 473, subdivision (d) but, because it applies to correcting clerical errors and void judgments, it is not applicable under the facts of this case.) Defendant relied on mistake of law and fact and excusable neglect. According to her declaration she was served with two additional actions at about the same time; one of those was filed by the same law firm as this one. In addition, her residence was in foreclosure. She stated that because of the stress associated with the collection actions she “had mislaid papers and mistaken this lawsuit with a different lawsuit” filed in June 2010 and did not “organize [her] affairs to catch [her] mistake in time.” (Italics omitted.) She also “honestly believed” this action “was put on hold” because the court’s website did not show any activity on the matter or the other two actions. Finally, once she received the notice of default and judgment, she sought to have plaintiff’s lawyers stipulate to set it aside, and when they did not, she filed the motion.

The court’s tentative ruling was to deny the motion because it did not find the defendant credible and she did not show “she acted reasonably under the circumstances.” Defendant knew plaintiff had filed two different actions. It was not reasonable to believe the case was ““dormant.”” Moreover, her explanation “she merely misplaced papers without making an effort to obtain another copy” was not reasonable.

On appeal defendant primarily takes issue with that last statement, arguing it was an incorrect statement. She maintains she never made such a claim and the court misunderstood her position. Moreover, she states she tried to inform the court “[i]t wasn’t just merely missing, losing a piece of paperwork.” But the court would not let her continue and made the tentative final ruling.

Defendant asserts in her brief that she did try to obtain documents from the court and plaintiff’s attorneys, but that argument fails. First, it is not supported by record references. We may not consider anything not in the record and we are not required to scour the record to find support for defendant’s arguments. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246.) Second, defendant’s declaration contains no facts supporting that claim. Rather, she just assumed nothing was happening with the case. Third, the court did not find defendant’s explanation credible. We defer to the court’s factual findings. (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874.) Finally, even if the court was mistaken that defendant did not try to procure copies of the documents, it is not a material mistake.

Moreover, even if defendant did try to obtain copies of the documents, it makes no difference in the outcome of the case. Pursuant to section 473, subdivision (b), when a motion for relief from default is filed the movant must also file a proposed answer or other response to the complaint. (*Carmel, Ltd. v. Tavoussi* (2009) 175 Cal.App.4th 393, 401.) “The purpose of the proposed pleading requirement of section 473 is to compel the delinquent party to demonstrate his or her good faith and readiness to proceed on the merits. [Citation.]” (*Ibid.*) Failure to file such a pleading mandates denial of the motion. Defendant filed no such pleading here. The court correctly ruled it had no choice in denying the motion.

The judgment is affirmed. Respondent is entitled to costs on appeal.

RYLAARSDAM, J.

WE CONCUR:

O'LEARY, P. J.

ARONSON, J.